

### **V. REMARKS**

Entry of the Amendment is proper under 37 C.F.R. §1.116 because the Amendment: a) places the application in condition for allowance for the reasons discussed herein; b) does not raise any new issue requiring further search and/or consideration because the Amendment amplifies issues previously discussed throughout prosecution; c) does not present any additional claims without canceling a corresponding number of finally rejected claims; and d) places the application in better form for appeal, should an Appeal be necessary. The Amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. The amendments to the subject claims do not incorporate any new subject matter into the claims. Thus, entry of the Amendment is respectfully requested.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The claim is amended to obviate the rejection. Withdrawal of the rejection is respectfully requested.

Claims 1, 3, 4, 6 and 19 are rejected under 35 U.S.C. 102(b) as anticipated by Awaya et al. (U.S. Patent No. 4,226,274). The rejection is respectfully traversed.

In connection with Awaya, while it is indicated by the Examiner that the instance in which two of the wear indicators of Figure 6 of Awaya are juxtaposed corresponds to the existing claim 1, according to the currently amended claim 1, the wear indicator is not defined by the "length" but is done by a "first surface shape" and a "second surface shape", so that the instance in which two of the wear indicators of Figure 6 of Awaya are aggregated or juxtaposed is excluded from the scope of claim 1. Thus, it is respectfully submitted that claim 1 is allowable over the applied art.

Of or with both of the two wear indicators of Awaya, the surface shape undergoes changing as the wear of the tread progresses, so that the result attainable according to the present invention that accurate measurement of wear can be made cannot be attained according to Awaya.

Claim 19 is canceled and therefore the rejection as applied thereto is now moot.

Claims 3, 4 and 6 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as unpatentable over Awaya in view of Havens (U.S. Patent No. 2,261,025). The rejection is respectfully traversed.

Havens discloses a pneumatic tire tread having improved tractive and anti-skid characteristics. Havens fails to teach anything concerning a layer indicator. The rectilinear slits 6 specifically pointed out by the Examiner in connection with Havens are always constant regardless of the degree of the tread wear and are have no function at all as a wear indicator.

Thus, Havens has an object of the invention different from that of Awaya and it can never be regarded as being derivable with ease by a skilled person in the art to apply Havens to Awaya.

As suggested above, Havens fails to cure the deficiencies of Awaya. Thus, it is respectfully submitted that one of ordinary skill in the art would not be motivated to combine the features of the applied art because such combination would not result in the claimed invention. As a result, claim 1 is allowable over the applied art.

Claims 3, 4 and 6 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Claim 19 is rejected under 35 U.S.C. 102(b) as anticipated by DE 362833. The claim is canceled and therefore the rejection as applied thereto is now moot. Withdrawal of the rejection is respectfully requested.

Claim 19 is rejected under 35 U.S.C. 103(a) as unpatentable over DE 362833 in view of EP 250113. The claim is canceled and therefore the rejection as applied to this claim is now moot. Withdrawal of the rejection is respectfully requested.

Claim 1 is rejected under 35 U.S.C. 103(a) as unpatentable over Japan 5-77613 in view of DE 833 and optionally EP 113. The rejection is respectfully traversed.

Japan 613 consists in lowering the block rigidity by providing a large number of small holes in the blocks. The shape of the holes is always constant regardless of the degree of the tread wear, so that the holes do not have the function of a wear indicator. Japan 613 is devoid of any suggestion to do with wear indication.

In or with German 833, the wear indicating groove is connected to the main groove, so that German 833 has the shortcoming that uneven wear is likely in the part of the wear indicating groove.

The Examiner points out that it is easy to combine German 633 with Japan 613. However, Japan 613 teaches nothing at all about wear indication, and accordingly it can never afford a motivation to make use of the large number of holes for wear indication. Also, even by a person skilled in the art, it can never be done to apply the wear indication according to German 833 to Japan 613 which is devoid of a suggestion about wear indication. At least for these reasons, it is respectfully submitted that claim 1 is a while over the applied art.

Withdrawal of the rejection is respectfully requested.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as unpatentable over Japan 613 in view of DE 833 and optionally EP 113 and further in view of Bins (U.S. Patent No. 3,833,040). The rejection is respectfully traversed.

Bins teaches a tire having a thin layer of material on the tread and in the grooves that is a different color than the material of the underlying tread.

Claims 3 and 6 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as unpatentable over Japan 613 in view of DE 833 and optionally EP 113 and further in view of French (U.S. Patent Reissue No. 30,518). The rejection is respectfully traversed.

French teaches a pneumatic tire wear indicating tread pattern. Slots 6 are formed into the tread surface near the main grooves 5. As the tread surface is worn away, chambers beneath the slots spell a word such as "stop" as shown in Figure 4 as a tire wear indicator.

Claims 4 and 6 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.


In view of the foregoing, reconsideration of the application and allowance of the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

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By:

  
David T. Nikaido  
Reg. No. 22,663

Carl Schaukowitch  
Reg. No. 29,211

**RADER, FISHMAN & GRAUER PLLC**  
1233 20<sup>th</sup> Street, N.W. Suite 501  
Washington, D.C. 20036  
Tel: (202) 955-3750  
Fax: (202) 955-3751  
Customer No. 23353

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